IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL (LODGING) NO.8 of 2007
IN
SUMMONS FOR JUDGEMENT NO. 328 OF 2005
IN
SUMMARY SUIT NO.1011 OF 2005

M/s.Hemjit Corporation & Anr. .. Appellants
versus
D.H. Desai .. Respondent

...

Mr.Shailesh Shah i/b M.V. Kini & Co. for the appellants

Mr.Priyadarshan V. Shah for the respondent.

CORAM : R.M.S. KHANDEPARKAR

AND D.G.KARNIK, JJ

DATED : 2nd April 2007.

P.C.:

1. Heard.

2. Admit. Mr.P.V. Shah for the respondent waives service.

3. By consent, heard forthwith.

4. By consent, the impugned judgement is hereby quashed and set aside and matter is remanded to the learned Single Judge with liberty to the appellant/ defendant to contest the proceedings by filing the written statement in the Summary Suit no.1011 of 2005. The written statement to be filed within eight weeks. Leave is granted subject to the appellant depositing sum of Rs.2,00,000/- in this court with liberty to the respondent/plaintiff to withdraw the same by furnishing security to the satisfaction of Prothonotary & Sr.Master. The amount of Rs.2,00,000/- shall be deposited within four weeks. In case the appellant fails to deposit the said amount within four weeks, the order passed today in this appeal shall stand automatically recalled without being referred to the court and the appeal shall stand dismissed.

5. Appeal is accordingly disposed of with no order as to costs.

(R.M.S. KHANDEPARKAR, J)

(D.G. KARNIK, J)